

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

As set forth in the Official Action mailed August 19, 2010, claims 1, 2 and 9-12 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,734,095 to Santomieri, claim 14 was rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,083,460 to Morikawa et al., claims 5 - 7 were rejected under 35 U.S.C. 103 as being unpatentable over Santomieri and claims 16 and 19 were rejected under 35 U.S.C. 103 as being unpatentable over Morikawa et al.

One of the primary references relied upon by the Examiner, Santomieri, is directed to an infusion assembly including a stylet needle 86. The proximal end 91 of the needle 86 is curved through essentially 90 degrees and terminates in a looped end or tail. Col. 4, lines 49-52. The needle may be modified as shown in FIG. 7 to provide a peripheral aperture 120 adjacent the curved proximal end. The aperture 120 is disposed in the surface of the needle essentially parallel to the bore 78. The guide core 60 is provided with an internal seal 122 which in the assembled position substantially occludes the aperture 120 in the needle 86.

Applicants respectfully submit that the transfer channel of Santomieri for humor sampling is the stylet needle 86 with a catheter. As interpreted by the Examiner, the distal end of needle 86 defines a first humor transfer channel and a second humor transfer channel is defined by the portion of needle 86 above nub 122 in FIG. 7. As set forth above, claim 1 has been amended to recite that said humor transfer channel comprises a first humor transfer channel that opens to said humor

inflow port, and a separate and distinct second humor transfer channel which is connected orthogonally to said first humor transfer channel. In contrast, Santomieri discloses one continuous channel having a bottom portion that is horizontal and a top portion that is vertical, as noted by the Examiner on Page 9, lines 8-11, of the Official Action of August 19,2010. Therefore, Santomieri does not disclose two separate and distinct humor transfer channels that are connected orthogonally to each other, as recited above in claim 1.

In addition, as recited in claim 1, the convex part is provided at an end portion on a humor outflow port side of said first humor transfer channel so as to protrude in said second humor transfer channel. As claimed, the convex part also protrudes toward said humor outflow port. The nub 122 does not protrude into the alleged second humor transfer channel of Santomieri nor towards the humor outflow port 112. Further, as recited in claim 20, the nub 122 does not protrude "along an axial direction of said second humor transfer channel" nor is the position of the nub 122 "fixed relative to said first humor transfer channel" when in use (see Col. 5, lines 30-35, of Santomieri describing the retraction of needle 86 relative to nub 122).

Accordingly, Applicants submit that independent claim 1 and the claims depending therefrom are patentable over Santomieri.

Independent claim 9 has been similarly amended to recite transferring the humor collected at the humor inflow port along a first humor transfer channel which opens to said humor inflow port and transferring the humor along a separate and distinct second humor transfer channel which is orthogonally connected to said first humor transfer channel.

As discussed above relative to claim 1, the curved proximal end 91 of needle 86 does not define a separate and distinct humor transfer channel orthogonally connected to the distal end of needle 86. Rather, as the name implies, it is a curved portion of a continuous transfer channel disposed intermediate and connecting the distal end of needle 86 and a further portion of the proximal end of needle 86. Therefore, Santomieri does not disclose the transfer of humor along two distinct humor transfer channels that are orthogonally connected to each other, as recited in claim 9.

Independent claim 14 has similarly been amended to recite that the humor transfer channel comprises a first humor transfer channel that opens to the humor inflow port and a second humor transfer channel separate and distinct from the first humor transfer channel and orthogonally connected to the first humor transfer channel, the second humor transfer channel being orthogonally oriented relative to the first humor transfer channel

The primary reference relied upon by the Examiner in rejecting claim 14, Morikawa, is directed to a collection device having a body member 51 with a tip end 52. Morikawa does not disclose or suggest two separate humor transfer channels that are orthogonally connected to one another. Accordingly, claim 14 is not rendered obvious by Morikawa.

The dependent claims define additional distinguishing aspects associated with the container. These claims are allowable at least by virtue of their dependence from allowable independent claims 1, 9 and 14 and so a detailed discussion of the additional distinguishing features recited in these dependent claims is not presented

at this time. Applicant reserves the right to present such arguments later during prosecution or on appeal.

Early and favorable action concerning this application is respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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